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IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO, *et al.*,
Petitioners,

v.

LOCAL 334, UNITED ASSOCIATION, ETC.,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Third Circuit

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BRIEF FOR RESPONDENT

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QUESTION PRESENTED

Whether Section 301 of the Labor Management Relations Act of 1947 creates subject matter jurisdiction in the federal courts over suits concerning an alleged violation of a union constitution.*

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* In addition to the United Association and Local 334, the other parties to the proceedings below were United Association Locals 49, 523, 124, 84, 14 and 274. Locals 49, 84, 124 and 523 intervened on the side of Local 334 and Locals 14 and 274 intervened on the side of the United Association. Locals 14 and 274 are petitioners here. However, of the Locals which intervened in the District Court on the side of Local 334, only Local 49 joined in the appeal of the District Court's decision to the Court of Appeals. Although identified in the petition for certiorari as respondents, those locals (Locals 49, 84, 124 and 523) are no longer parties.

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BRIEF FOR RESPONDENT

OPINIONS BELOW

The opinion of the Court of Appeals is reported at 628 F.2d 812. It is reproduced at pp. 1a to 19a of the Petition for Certiorari (hereafter referred to as "Pet.").

The opinion of the District Court was in the form of a Letter Opinion dated August 17, 1979 and is unreported. It is reproduced at Pet. 20a to 28a.

JURISDICTION

The judgment of the Court of Appeals was entered on August 4, 1980 (Pet. 29a-30a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTE INVOLVED

Section 301(a) of the Labor Management Relations Act of 1947 (hereafter "LMRA" or "the Act"), 61 Stat. 136 *et seq.*, 29 U.S.C. § 185(a), provides as follows:

> Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in the Act, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

STATEMENT OF THE CASE

A. The Facts as Alleged by Local 334

Local 334, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (hereafter "Local 334") is a labor organization chartered by and affiliated with the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (hereafter "the United Association").[1] Local 334 is a combination local, representing both plumbers and pipefitters in Morris County, New Jersey. (J.A. 19, 54-55, 91).[2]

Local 334 operates a hiring hall for employers needing journeymen or apprentices. Employers call the hall and Local 334 refers the needed employees (J.A. 56, 92). Local 334's hiring hall is an internal union procedure rather than a collectively bargained term of agreement between Local 334 and employers. (Pet. 16a).

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[1] The United Association is an international labor organization composed of numerous local unions throughout the United States and Canada.

[2] "J.A." refers to the Joint Appendix filed with the Court.

Employees who complete an apprenticeship program are required to elect a designation of "plumber" or "pipefittter." However, as a combination local, Local 334 has, for years, referred employees to either plumbing or pipefitting jobs without regard to the employees' designation. The 185 members of Local 334 have enjoyed excellent employment opportunities and a lower rate of unemployment than that experienced by members of other New Jersey locals. (J.A. 55, 59, 56).

The relationship between Local 334 and the United Association is governed by the Constitution of the United Association (J.A. 55, 91). Section 86 of the Constitution authorizes the General President of the United Association to consolidate local unions whenever he concludes that "there is a superfluous number of Local Unions in any locality, and that a consolidation would be for the best interest of the United Association. . ." (J.A. 25). In 1977, International Representative Francis Coyne informed various Northern New Jersey local unions that unless they voluntarily merged, the General President would invoke Section 86 to direct consolidation under a plan Coyne would recommend. Pursuant to this directive, in May, 1977, Locals 334, 765, 124 and 49 petitioned the General President for permission to consolidate, with Local 334 as the surviving combination local. The locals never received a response to their proposal. (J.A. 57).

In May, 1977, the General President issued an order to show cause why International Representative Coyne's consolidation proposal should not be implemented under Section 86. On May 10, 1977, Hearing Officer Philip Coyne conducted a hearing, at which Francis Coyne and representatives of nine local unions participated. Local 334 and several other locals objected to the Coyne proposal and reiterated their own proposal for consolidation into combined locals. (J.A. 57, 31-35). Hearing Officer Coyne issued a report recommending that Inter-

national Representative Coyne's proposal be implemented (J.A. 38-40).

On August 4, 1977, General President Martin Ward adopted the findings, conclusions and recommendations of the Hearing Officer and concluded that "there are a superfluous number of local unions in the northern part of New Jersey" and that it would serve the "best interests" of the United Association to order their consolidation, with the consent and approval of the General Executive Board. He ordered the following:

> Consolidation of Fitters Local 765 (Passaic) into Fitters Local 274 (Jersey City) and the transferring of the fitter members of three combination locals, Local 49 (Patterson), Local 334 (Morristown) and Local 523 (Dover) into Fitters Local 274.
>
> Consolidation of Plumbers Local 84 (North Hudson), Plumbers Local 124 (Passaic) and Plumbers Local 326 (Hackensack) into Plumbers Local 14 (Jersey City) and the transferring of the plumber members of three combination local unions, Local 49 (Patterson), Local 334 (Morristown) and Local 523 (Dover) into Plumbers Local 14.
>
> The establishment and chartering of a separate Metal Trades Local 855 for the approximately 1500 metal trades members of Fitters Local 274 who are employed by the New Jersey Public Service Electric and Gas Company.

(J.A. 58, 41-45). Consolidated Locals 334, 49 and 523 were directed to divide their assets on an equitable basis and turn them over to the surviving locals. A "great portion" of the Local 334 property subject to the order of consolidation consisted of real estate. (J.A. 60). Straight line Locals (*i.e.*, those composed only of plumbers or pipefitters) 765, 84, 124 and 326 were directed to transfer their assets to the surviving locals. (J.A. 58, 42-43).

The consolidation order directed the pipefitter members of Local 334 to transfer into Local 274 and the plumber members to transfer into Local 14 (J.A. 42). If the order is implemented, Local 334's members could no longer be referred for work regardless of their classification; rather, they will be required to work under separate local unions divided along craft lines and, therefore, under separate lists as either a plumber or a pipefitter, with no opportunity to interchange (J.A. 59).

B. The Complaint and Amended Complaint in State Court

On August 22, 1977, Local 334 filed a Complaint in the Superior Court of New Jersey, Chancery Division, Morris County. The Complaint alleged that Local 334 had appealed the Order of Consolidation to the General Executive Board, with a request for a stay pending appeal, pursuant to Sections 218, 219 and 222 of the Constitution. Before the General Executive Board responded, International Representative Coyne appeared in Local 334's office and forcibly removed the Local's charter and seal. (J.A. 20)

The Complaint alleged that Section 86 of the Constitution did not permit the *division* of a local union and that the Order of Consolidation is, therefore, in violation of the Constitution. The Complaint further alleged that the Order would cause "substantial and irreparable injury" to Local 334's and its members' property and property rights; and that Local 334 and its members would suffer greater injury from the denial of injunctive relief than the United Association would suffer from the grant of an injunction (J.A. 21).

The Complaint urged the court to maintain the status quo pending the resolution of Local 334's appeal to the General Executive Board; that its seal and charter be returned; that the United Association process the internal appeal; and that the United Association cease

interfering in Local 334's affairs and threatening members and officers with expulsion (J.A. 22).

On August 26, 1977, Local 334 filed an Amended Complaint.[3] The Amended Complaint alleged that the Order of Consolidation was "illegal" under the Constitution because it did not "constitute a consolidation of local unions within the meaning of Section 86" (J.A. 59); that the General President abused his discretion in ordering the consolidation and by failing to specify why Local 334 was "superfluous" and why the "consolidation" was in the "best interests" of the United Association (J.A. 61-63); and that the General Executive Board had failed to process Local 334's appeal and request for a stay (J.A. 64).

The Amended Complaint urged the court to stay the implementation of the Order; to direct the return of Local 334's charter and seal; to direct the cessation of harrassment; to set aside the Order; and to direct the General Executive Board to review and consider Local 334's appeal (J.A. 60-65).

C. Removal to Federal District Court

On August 25, the United Association filed a Petition for removal, pursuant to 28 U.S.C. § 1441, to the United States District Court for New Jersey. The Petition alleged that "the cause of action herein is an action for violation of a contract between labor organizations representing employees in an industry affecting commerce arising under Section 301 of the Labor Management Relations Act of 1947." (J.A. 52-53). Local 334 filed a Motion to Remand, asserting that the action was not governed by Section 301 and that the assertion of jurisdiction would involve needless federal intervention in in-

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[3] Both the Complaint and the Amended Complaint will hereafter be referred to as "the Complaint" unless specified otherwise.

ternal union affairs (J.A. 88-90). The District Court, per Judge Biunno, denied the motion (J.A. 98-99).

Immediately after the case was removed, Local 334 obtained an *ex parte* temporary restraining order enjoining the United Association from enforcing the Order of Consolidation, from treating Local 334 as less than a duly constituted Local Union, and from interfering with Local 334's contracts with employers (J.A. 66-67). After a hearing, Local 334's request for a preliminary injunction was denied, and the temporary restraining order was subsequently dissolved.

After the completion of discovery, the parties filed cross-motions for summary judgment. In a Letter Opinion dated August 17, 1979, the District Court granted the United Association's motion (Pet. 20a). The court ruled that Local 334 had failed to exhaust its internal union remedies. The court also ruled that the United Association was entitled to summary judgment on the merits.

D. The Proceedings in the Court of Appeals

Local 334 filed a timely notice of appeal. The Court of Appeals, *sua sponte*, questioned whether Section 301 provided jurisdiction over the case and requested the parties to submit supplemental briefs on the issue both before and after oral argument. On August 4, 1980, the Court of Appeals issued its decision holding that Section 301 did not provide federal subject matter jurisdiction over the action, vacated the judgment of the District Court, and remanded the case to the District Court with instructions to remand the case to the State Court (Pet. 1a-19a).

On August 20, 1980, the Court of Appeals granted a stay of its mandate pending the United Association's filing of a petition for writ of certiorari.

The United Association's petition was filed on October 31, 1980 and was granted on January 26, 1981.

SUMMARY OF ARGUMENT

Section 301(a) of the Labor Management Relations Act should not be construed to extend federal jurisdiction over a suit alleging a violation of a union constitution. The assertion of jurisdiction over such suits will open a Pandora's box, thereby enmeshing the federal courts in disputes which are within the competence of state courts applying state law. The principle of stare decisis dictates that the Court adhere to its decisions which recognize that Section 301(a) does not provide subject matter jurisdiction to enforce union constitutions.

The legislative histories of the Taft-Hartley Act of 1947 and of the Landrum-Griffin Act of 1959 together demonstrate that Congress did not intend to extend federal jurisdiction over union constitutions in 1947. Accordingly, Section 301(a)'s reference to contracts "between labor organizations" should be limited to agreements between unrelated labor organizations.

If Section 301(a) is construed to permit federal courts to assert jurisdiction over suits alleging a violation of a union constitution, the courts must assert jurisdiction over *all* cases and create a new federal common law which would displace existing state law. Section 301(a) does not provide a basis for the federal courts to assert jurisdiction over some but not all disputes arising under contracts within the meaning of the statute. Section 301(a) grants individuals access to the federal courts to assert their contractual rights, and would provide jurisdiction for suits by members if the statute is interpreted to encompass union constitutions.

On the other hand, if the Court does determine that jurisdiction exists under Section 301(a) for some disputes under union constitutions, the Court should interpret the statute as only applying to internal union disputes which present an actual traumatic impact on labor-

management relations, not a theoretical or potential impact. In this case, the Third Circuit properly concluded that the allegations in the Complaint alleged only a minimal impact on labor relations. Accordingly, even if Section 301(a) is interpreted to extend federal jurisdiction over internal union disputes which have a significant effect on labor peace, this internal union dispute is not sufficient to invoke the jurisdiction of the federal court. Only if the statute is read to encompass any and all disputes under a union constitution can the present case be deemed to present a federal question.

ARGUMENT

I. SECTION 301(A) DOES NOT EXTEND FEDERAL JURISDICTION TO ENCOMPASS DISPUTES ARISING UNDER UNION CONSTITUTIONS

The question of whether Section 301(a) provides subject matter jurisdiction for suits alleging a breach of a union's constitution is not one of first impression in this Court. On three previous occasions, this Court has considered the proper forum for the resolution of disputes arising under the constitution of a national labor organization and, in each case, the Court has held that suits to enforce the provisions of a union constitution are within the competence of state courts applying state laws. *Machinists v. Gonzales*, 356 U.S. 617, 619 (1958); *Motor Coach Employees v. Lockridge*, 403 U.S. 274, 293-297 (1971); *NLRB v. Boeing Co.*, 412 U.S. 67, 76 (1973). In this case, the Court should adhere to its prior rulings under the principle of stare decisis and not "federalize" the resolution of internal union disputes under the construction of Section 301 urged by the United Association.

In *Machinists v. Gonzales*, the Court held that a state court damage action challenging a member's expulsion from a union was not preempted by the National Labor

Relations Act.[4] Gonzales alleged that his expulsion violated the provisions of the union constitution under California law. In holding that his suit for violation of the union constitution could be brought in California state court under state law, the Court said (*supra*, 356 U.S. at 618, 620):

> . . . state law provides, through mandatory reinstatement and damages, a remedy for breach of [a union constitution] through wrongful expulsion . . .
>
> The protection of union members in their rights as members has not been undertaken by federal law, and indeed the assertion of any such power has been denied.

There was no suggestion in *Gonzales* that the alleged breach of a union constitution was cognizable under Section 301(a). If Section 301 had been interpreted to encompass the subject matter of Gonazles' complaint, federal common law rather than California law would have been applied. *Textile Workers v. Lincoln Mills*, 353 U.S. 448, 451 (1957).

Several years later, the Court considered a state court action in which it was alleged that a union violated a provision in its constitution and bylaws by suspending a member and causing an employer to discharge him. Because the complaint alleged no employer breach of the collective bargaining agreement and no union breach of the duty of fair representation, the Court refused to find jurisdiction under Section 301(a)'s provision for suits between an employer and a labor organization. The Court held that the suit was preempted because the misconduct arguably violated §§ 8(a)(3) and 8(b)(2) of

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[4] 29 U.S.C. § 151 *et seq.* Under the preemption theory, the Act preempts the jurisdiction of federal and state courts to regulate conduct which is "arguably subject to § 7 or § 8 of the Act." *San Diego Building Trades Council v. Garmon*, 359 U.S. 236, 245 (1959).

the National Labor Relations Act. *Motor Coach Employees v. Lockridge, supra,* 403 U.S. at 284. In deciding that Lockridge's action was preempted, this Court considered and rejected the argument, made here by the United Association, that Section 301 provides subject matter jurisdiction for suits alleging a breach of the union's constitution. *Id.* at 299-300. Had Section 301 been construed to encompass Lockridge's claim under the union constitution, his suit would not have been preempted. *Id.*; *Dowd Box Co. v. Courtney,* 368 U.S. 502, 513 (1962).

Most recently in *NLRB v. Boeing Co., supra,* the Court reaffirmed that the state law of contracts or of voluntary associations governs a union constitution and held that state courts, rather than the National Labor Relations Board, had jurisdiction to determine the reasonableness of fines imposed on members who violate their union's constitution. *Supra,* 412 U.S. at 76-77. *Boeing* merely reiterated prior decisions of this Court that, "[u]nless the [union constitution] or its enforcement impinges on some policy of federal labor law, the regulation of the relationship between union and employee is a contractual matter governed by local law." *Scofield v. NLRB,* 394 U.S. 423, 426 n.3 (1969).

In the present case, the United Association is asking the Court to disregard these decisions and interpret Section 301 to provide federal jurisdiction for suits alleging violation of a union constitution. This construction of Section 301 would fundamentally alter the relationship between state courts, federal courts and the Board and would require the displacement of state law by a new federal common law. We submit that the prior decisions of this Court are sound and that Section 301 should not be interpreted as providing jurisdiction for the resolution of internal union disputes.

A. By Enacting Section 301(a), Congress Did Not Intend to Extend Federal Jurisdiction to Internal Union Disputes

As unions gained strength under the protections of the Wagner Act, so too did criticism of union power. Twelve years after the passage of the Wagner Act, Congress adopted the Taft-Hartley Act to regulate alleged union misconduct by proscribing certain union unfair labor practices and providing for the enforcement of collective bargaining agreements under Section 301.

Among the most frequently alleged union abuses at the time the Taft-Hartley Act was enacted was the violation of collective bargaining agreements. A provision in the Senate bill which made the violation of "the terms of an agreement to submit a labor dispute to arbitration" an unfair labor practice was deleted from the final version of the bill.[5] The Conference Report stated that "[o]nce the parties have made a collective bargaining contract the enforcement of that contract should be left to the usual process of the law and not to the National Labor Relations Board." [6] Accordingly, Congress enacted Section 301(a) which provided that:

> *Suits for violation of contracts* between an employer and a labor organization representing employees in an industry affecting commerce as defined in this Act, or *between any such labor organizations*, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties. [Emphasis supplied]

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[5] S.1126, 80th Cong., 1st Sess. §§ 8(a)(6), 8(b)(5); see S. Rep. No. 105, 20-21, 23. I Legislative History of the Labor Management Relations Act of 1947, 111, 114, 426-427, 429. (Hereinafter cited as "Legislative History (1947)"). The House bill contained a similar provision. H.R. 3020, § 2(11); see H.R. Rep. No. 245, 21. I Legislative History 36-37, 312 (1947).

[6] H.R. Conf. Rep. No. 510, 42. I Legislative History 546 (1947).

The legislative history of the clause "or between any such labor organizations," which was inserted in Conference (*Retail Clerks v. Lion Dry Goods, Inc.*, 369 U.S. 17, 26 (1962)), is nonexistant. The Conference Report provides no explanation for this amendment.[7] "The most that can be said with certainty is that Congress did not anticipate the problem" of whether Section 301 provides federal jurisdiction for suits to enforce the provisions of a union constitution. *Parks v. IBEW*, 314 F.2d 886, 91[illegible] (4th Cir. 1963), *cert. denied*, 372 U.S. 976.

The solution to this "problem" cannot be found in a literal reading of the statute. "The general term 'contract' is meaningless in the abstract unlimited sense since . . . such a huge panoply of relationships can conceivably be comprehended by the word." *Local Union No. 657, United Brotherhood of Carpenters v. Sidell*, 552 F.2d 1250, 1252 (7th Cir. 1977), *cert. denied*, 434 U.S. 862. It would thus be "highly unrealistic to regard [the word 'contract'] as precisely and unambiguously covering" the terms of a union constitution. Compare *NLRB v. Allis-Chalmers Mfg. Co.*, 388 U.S. 175, 179 (1967). As the Court has previously determined, "the implications of [the word 'contract' in Section 301] must be determined from the connection in which it appears." *Retail Clerks v. Lion Dry Goods, Inc., supra*, 369 U.S. at 28. Because union constitutions can only be considered "contracts between labor organizations" by implication from the statute,[8] the Court must look to the legislative

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[7] H.R. Conf. Rep. No. 510, 65-66. I Legislative History 569-570 (1947); II Legislative History 1543 (1947).

[8] While the point is by no means dispositive, had Congress intended in 1947 to make the provisions of a union's constitution enforcable in federal court, it could easily have done so explicitly. *Smith v. United Mine Workers*, 493 F.2d 1241, 1243-1244 (10th Cir. 1974). Indeed, as discussed *infra*, Congress did just that, in limited respect, by enacting the Landrum-Griffin Act twelve years later.

history of Section 301(a) and of the Taft-Hartley Act generally for guidance in determining the congressional purpose, which "is the ultimate touchstone" for resolving this issue. *Retail Clerks v. Schermerhorn*, 375 U.S. 96, 103 (1963).[9]

The legislative history of Section 301 does not support the inclusion of union constitutions among "contracts between labor organizations."[10] Congress' "principal mo-

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[9] Even if "contracts between labor organizations" could be "literally" read to include union constitutions, the issue would not be resolved. The "familiar rule that a thing may be within the letter of the statute and yet not within the statute because not within its spirit, nor within the intention of its makers" (*Holy Trinity Church v. United States*, 143 U.S. 457, 459 (1892)) has particular application to interpretation of labor legislation which is "to a marked degree, the result of conflict and compromise between strong contending forces and deeply held views on the role of organized labor in the free economic life of the Nation . . . ." *National Woodwork Mfrs. Assn. v. NLRB*, 386 U.S. 612, 619 (1967); *Wirtz v. Local 153, Glass Bottle Blowers Assn.*, 389 U.S. 463, 468 (1968); *Muniz v. Hoffman*, 422 U.S. 454, 469-470 (1957); *NLRB v. Allis-Chalmers Mfg. Co., supra*, 388 U.S. at 179.

The Court of Appeals expressly declined to consider whether "a union constitution, a local union charter, or a combination of both" could constitute a "contract" within the meaning of Section 301(a). (Pet. 11a, n. 13). This omission was based on its assumption that the statute did provide jurisdiction *if* the amended complaint satisfied the "significant impact" test. The United Association had urged just this assumption.

[10] It is at least arguable that a union constitution is not a "contract between labor organizations." In 1947, "Congress was operating within the context of the 'contract theory' of the union-member relationship which widely prevailed at the time." *NLRB v. Allis-Chalmers Mfg. Co., supra*, 388 U.S. at 192. Under that theory, the constitution contains a contract between the members *inter se*, between each member and the union *and* between the various bodies of the union. *See, e.g., Harris v. Geier*, 112 N.J. Eq. 99, 104-105, 164 A. 50, 52 (Ch. 1932). *See also Machinists Lodge 405 v. NLRB*, 412 U.S. 84, 88 (1973); *NLRB v. Granite State Joint Board*, 409 U.S. 213, 217 (1972). The United Association overemphasizes

tive" in enacting Section 301, to provide a forum for the enforcement of collective bargaining agreements (*Dowd Box v. Courtney, supra*, 368 U.S. at 510), did not apply to union constitutions because, as the United Association correctly recognizes (Br. at 18, n. 12), state courts were generally available in 1947 to enforce the provisions of a union constitution.[11] In contrast to collective bargaining agreements, the enforceability of a union constitution was "not a part or parcel of the abuses against which" Section 301 was aimed. *Textile Workers v. Lincoln Mills, supra*, 353 U.S. at 458.[12] Moreover, the avail-

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(Br. at 15-17) the Court's references to a union constitution as "the fundamental agreement of association" (*Coronado Coal Co. v. United Mine Workers*, 268 U.S. 295, 304 (1925)), for the Court spoke of an "association of men" rather than an association of intermediate bodies. The Court can reasonably conclude that in 1947 Congress considered a union constitution primarily to be a contract between members and their union and only secondarily to be a contract between affiliated bodies of a labor organization, and, therefore, not as a "contract between labor organizations."

[11] Before 1947, union constitutions were enforceable in at least forty-five of the forty-eight state courts under at least one of several theories. Decisions from these state courts are listed in the Supplemental Appendix. These theories underlying state court enforcement of union constitutions are discussed in Chafee, *The Internal Affairs of Associations Not for Profit*, 43 HARV. L. REV. 993 (1930); Summers, *Legal Limitations on Union Discipline*, 64 HARV. L. REV. 1049 (1951); Note, *Judicial Control of Actions of Private Associations*, 76 HARV. L. REV. 983 (1963).

[12] In *Lincoln Mills, supra*, 353 U.S. at 454, the Court quoted the following portion of the Senate Report:

> If unions can break agreements with relative impunity, then such agreements do not tend to stabilize industrial relations. The execution of an agreement does not by itself promote industrial peace. The chief advantage which an employer can reasonably expect from a collective labor agreement is assurance of uninterrupted operation during the term of the agreement. Without some effective method of assuring freedom from economic warfare for the term of the agreement, there is

ability of state courts to hear and resolve disputes under union constitutions seriously undermines any contention that parallel federal jurisdiction need be asserted by the Court on policy grounds.[13]

The overall legislative history of the Taft-Hartley Act refutes the argument that Section 301 encompasses a union constitution.[14] The 80th Congress clearly did not

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little reason why an employer would desire to sign such a contract.

I Legislative History 422 (1947). As the Chafee and Summers articles suggest, there was no corresponding indication that unions violated their constitutions "with relative impunity."

[13] Although the United Association's motives for removing the case from state to federal court are neither self evident nor relevant, the United Association cannot argue that New Jersey courts do not provide an adequate forum. In the past, the New Jersey state courts have provided a sympathetic forum for resolving disputes arising under the United Association constitution. In *Local 14, Plumbers v. United Association*, 61 N.J. Super. 228, 160 A.2d 664 (App. Div. 1960), the court dismissed a similar action on the ground that the complaining local had failed to exhaust its internal union remedies. The United Association raised this same defense before the District Court below.

[14] The United Association's suggestion that the Court ignore the relationship between Section 301 and Section 8 (Br. at 21-22, n. 15) is both disingenuous and meretricious. The United Association acknowledges, as it must, that crucial definitions for Title III (Section 301) appear in Title I of the Taft-Hartley Act. More importantly, the Court has frequently considered the legislative history of Section 8 while interpreting Section 301. *Retail Clerks v. Lion Dry Goods, Inc.*, 369 U.S. 17, 29 (1962); *Arnold Co. v. Carpenters District Council*, 417 U.S. 12, 17-18 (1974); *Howard Johnson Co. v. Detroit Joint Board*, 417 U.S. 249, 256 (1974) ("It would be plainly inconsistent . . . to say that the basic policies found controlling in an unfair labor practice context may be disregarded by the courts in a suit under § 301, and thus to permit the rights . . . to depend upon the forum in which the Union presses its claims."). *Cf. NLRB v. Rockaway News Supply Co.*, 345 U.S. 71, 80 (1953); *Mastro-Plastics Corp. v. NLRB*, 350 U.S. 270, 279-284 (1956).

intend to intervene in the internal affairs of labor unions. Even a cursory review of the legislative history of the provisos to Section 8(a)(3)[15] and 8(b)(1)(A),[16] and Section 8(b)(2)[17] reveals "that Congress expressly disclaimed . . . any intention to interfere with union self-government or to regulate a union's internal affairs." *NLRB v. Allis-Chalmers Mfg. Co., supra,* 338 U.S. at 184. For example, Senator Ball, who introduced the proviso to Section 8(b)(1)(A), told his colleagues that "[i]t was never the intention of the sponsors of the pending amendment to interfere with the internal affairs or organization of unions." II Legislative History 1141 (1947). Senator Taft stated that the bill was not designed to "tell unions how they shall vote or how they shall conduct their affairs. . ." *Id.* at 1030. The Court cannot assume that Congress implicitly authorized the federal judiciary to intrude into internal union affairs when it so explicitly denied such authority for the National Labor Relations Board.

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[15] . . . *Provided further,* That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

[16] . . . *Provided,* That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein.

[17] . . . (2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a)(3) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

The subsequent passage of the Landrum-Griffin Act in 1959 confirms "that union self-government was not regulated in 1947." *NLRB v. Allis-Chalmers Mfg. Co., supra,* 388 U.S. at 194.[18] The 1959 Act, which was "the *first* comprehensive regulation . . . of internal union affairs" (*Id.* at 193, emphasis supplied), reflected Congress' "long-standing policy against unnecessary intrusion into internal union affairs." *Wirtz v. Local 158 Glass Bottle Blowers Ass'n.*, 389 U.S. 463, 470-471 (1968). Congress intended to allow "unions great latitude in resolving their own internal controversies" (*Calhoon v. Harvey*, 379 U.S. 134, 140 (1964)) without unwarranted interference by the federal judiciary. *Boilermakers v. Hardeman*, 401 U.S. 233, 243-245 (1971).

The competence of state courts to interpret union constitutions was expressly preserved by Sections 103, 403 and 603(a) of the Landrum-Griffin Act. 29 U.S.C. §§ 413, 483, 523(a). Section 103 provides that pre-existing state laws are not affected by Title I of the Act, the Bill of Rights of union members.[19] Similarly, Section 403 prescribes that "[e]xisting rights and remedies to enforce the constitution and bylaws of a labor organization with respect to elections prior to the conduct thereof shall not be affected by" Title IV, which regulates internal union elections. Section 403 thus specifically al-

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[18] Although courts are reluctant to infer legislative history from the actions of subsequent legislatures, as this Court has observed, courts "may properly take into account the later (Landrum-Griffin) Act when asked to extend the reach of the earlier (Taft-Hartley) Act's vague language to the limits which, read literally, the words might permit." *NLRB v. Drivers Local Union*, 362 U.S. 274, 291-292 (1960); *NLRB v. Allis-Chalmers Mfg. Co., supra*, 388 U.S. at 194.

[19] Senator Morse and Representative Teller both expressed opposition to the Congressional refusal to preempt state law. II Legislative History of the Labor-Management Reporting and Disclosure Act of 1959, 1415, 1624.

lows for suits in state courts to enforce rights granted by union constitutions.[20] Finally, Section 603(a) prescribes that, unless expressly provided otherwise, the Act was not intended to "take away any right or bar any remedy to which [union members] are entitled under such other Federal law or law of any state." The federal laws preserved under the Landrum-Griffin Act were the Railway Labor Act,[21] the Civil Rights Acts of 1964 and 1866,[22] and those provisions of the Taft-Hartley Act which were to be enforced by the National Labor Relations Board.[23] There is no judicial or legislative indication that Congress recognized the existence, much less intended to preserve, any federal law with respect to enforcement of union constitutions under Section 301.

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[20] *Trbovich v. Mine Workers*, 404 U.S. 528, 533 n. 6 (1972); *Libutti v. DiBrizzi*, 343 F.2d 460, 461 (2d Cir. 1965); *Rota v. BRAC*, 489 F.2d 998, 1004 (7th Cir. 1973) (Judge, now Justice, Stevens), *cert. denied*, 414 U.S. 1144, *on remand*, 64 F.R.D. 699, 704 (N.D. Ill. 1974); *Calhoon v. Harvey*, 379 U.S. 134, 145-146 (1964) (Stewart, J., concurring); *Colpo v. Highway Truck Drivers Local 107*, 201 F.Supp. 307, 312-313 (D. Del. 1961), *vacated as moot*, 305 F.2d 362 (3d Cir. 1962), *cert. denied*, 371 U.S. 890; *Printing Specialties District Council No. 2 v. Int'l Printing and Graphic Communications Union*, 466 F.Supp. 13, 14-16 (E.D. Tenn. 1978). *See also* Note, *Union Elections and the LMRDA: Thirteen Years of Use and Abuse*, 81 YALE L. J. 407, 555 (1972).

[21] *Adamszewski v. Machinists Lodge 1487*, 496 F.2d 777, 784-785 (7th Cir. 1974).

[22] *Tucker v. Tobacco Workers Local 183*, 488 F.2d 76, 78 (4th Cir. 1973).

[23] *Fulton Lodge 2, Machinists v. Nix*, 415 F.2d 212, 215-216 (5th Cir. 1969); *Boilermakers v. Braswell*, 388 F.2d 193, 195-196 (5th Cir. 1968); *Parks v. IBEW*, 314 F.2d 886, 922 (4th Cir. 1963); *Rekant v. Shochtay-Gasos Union*, 320 F.2d 271, 274-275 (3d Cir. 1963); *Machinists v. King*, 335 F.2d 340, 346-347 (9th Cir. 1964), *cert. denied*, 379 U.S. 920; *McDonald v. Oliver*, 525 F.2d 1217, 1230-1231 (5th Cir. 1976). *See also NLRB v. Allis-Chalmers Mfg. Co.*, 388 U.S. 175, 214 n. 23 (1967) (Black, J., dissenting).

To the contrary, the provisions of the 1959 Act were designed to protect *state* law with regard to interpretation of union constitutions. *Boilermakers v. Hardeman, supra*, 401 U.S. at 244 n. 11; *Tomko v. Hilbert*, 288 F.2d 625, 629 (3d Cir. 1961); *Underwood v. Maloney*, 256 F.2d 334 (3d Cir. 1957), *cert. denied*, 358 U.S. 864; *Carroll v. Musicians*, 235 F.Supp. 161, 174 (S.D.N.Y. 1963).[24]

Thus, although the legislative history of Section 301 (a) may not expressly provide a definitive basis for excluding disputes arising under union constitutions, the legislative history of the Taft-Hartley and Landrum-Griffin Acts, considered together, make clear that Section 301(a) was not intended to provide federal jurisdiction over a "dispute between a parent union and a local union over the meaning and effect of the union constitution." *Smith v. United Mine Workers*, 493 F.2d 1241, 1243 (10th Cir. 1974).[25] To interpret Section 301 as encompassing union constitutions would not serve any of the Congressional policies underlying Section 301(a), would run counter to the overall legislative scheme of the Taft-Hartley Act, and, finally, would require the Court to find that "Congress preceded the Landrum-Griffin amendments with an even more pervasive regulation of the internal affairs of unions." *NLRB v. Allis-Chalmers Mfg. Co., supra*, 388 U.S. at 183.

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[24] Justice White, dissenting in *Motor Coach Employees v. Lockridge*, 403 U.S. 274, 322 (1971), wrote that under Sections 103 and 603(a) "any parallel rights created by the States, either directly or *indirectly through enforcement of union constitutions or bylaws*, were to stand at full strength." (Emphasis supplied)

[25] *See also Petitioners of Local 390, IBEW v. IBEW*, 391 F.2d 914 (5th Cir. 1968); *Snoots v. Vejlupek*, 87 F.Supp. 503, 504 (N.D. Ohio 1949); *Kriss v. White*, 87 F.Supp. 734, 735 (N.D. N.Y. 1949).

B. The Exclusion of Union Constitutions Does Not Negate the "Contracts Between Labor Organizations" Provision of Section 301(a)

To read Section 301 as not encompassing union constitutions does not negate any portion of the statute nor violate the well-accepted rule of construction that a statute should be interpreted to give effect to all of its provisions. *Reiter v. Sonotone Corp.*, 442 U.S. 330, 338-339 (1979); *FAA Administrator v. Robertson*, 422 U.S. 255, 261 (1975). Whatever decision the Court renders in this case, Section 301(a) will continue to provide a jurisdictional basis for the enforcement of a variety of contracts or agreements between *unrelated* labor organizations: no raid agreements,[26] jurisdictional dispute resolution agreements,[27] merger or affiliation agreements,[28] and promissory notes on loans between previously unrelated organizations.[29] These contracts can be included within Section 301 without doing harm to the Congressional policy of noninterference with internal union affairs because the parties to these contracts are not a parent and local bodies within the same labor organization. *Smith*

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[26] *Firemen and Oilers v. Machinists*, 338 F.2d 176 (5th Cir. 1964); *United Textile Workers v. Textile Workers Union*, 258 F.2d 743 (7th Cir. 1958); *Abrams v. Carrier Corp.*, 434 F.2d 1234 (2d Cir. 1970), *cert. denied*, 401 U.S. 1009.

[27] *Drywall Tapers, Local 1974 v. Operative Plasterers*, 537 F.2d 669 (2d Cir. 1976); *Drywall Tapers v. Operative Plasterers*, 601 F.2d 675 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073; *Local 33 Hod Carriers v. Mason Tenders*, 291 F.2d 496 (2d Cir. 1961); *Lumber Workers v. Millmen's Local*, 169 F.Supp. 765 (N.D. Cal. 1958); *Santos v. District Council, Carpenters*, 547 F.2d 197 (2d Cir. 1977).

[28] *Durkin v. Murray*, 90 F.Supp. 367 (D. D.C. 1950); *Mine Workers v. District 50*, 298 F.Supp. 1262 (D. D.C. 1969), *rev'd*, 435 F.2d 421 (D.C. Cir. 1970), *cert. denied*, 402 U.S. 906; *Local 1, Teamsters v. Teamsters*, 419 F.Supp. 263 (E.D. Pa. 1976).

[29] *Mine Workers v. District 50, supra.*

v. United Mine Workers, supra. Disputes arising under these contracts are, by definition, not *internal* union matters.

C. Section 301(a) Provides No Basis for Extending Federal Jurisdiction To Some, But Not All, Disputes Arising Under Union Constitutions

As the United Association properly argues, if Section 301(a) were intended by Congress as a grant of federal jurisdiction over suits under union constitutions, the Federal judiciary must assert jurisdiction. *Harrison v. PPG Industries, Inc.*, 446 U.S. 578, 592-594 (1980); *Cohens v. Virginia*, 6 Wheat (19 U.S.) 264, 403 (1821). If the "contracts between labor organizations" provision is interpreted to include union constitutions, Section 301 must encompass all disputes arising under the constitutions of labor organizations representing employees in an industry "affecting commerce." See *Smith v. Evening News Association*, 371 U.S. 195, 199-200 (1962); *Textile Workers v. Lincoln Mills*, 353 U.S. 448, 456-457 (1957). Any grant of jurisdiction under Section 301 to encompass union constitutions would necessarily be broad in the absence of any apparent basis in the statutory language or in its legislative history for differentiating among suits to enforce Section 301 contracts. See Note, *Applying the "Contracts Between Labor Organizations" Clause of Taft-Hartley Section 301: A Plea for Restraint*, 69 YALE L. J. 299 (1959).

1. *Section 301 Would Confer Jurisdiction Over Suits Between Individual Members and Their Union Concerning the Interpretation of its Constitution*

Section 301(a) cannot be construed to permit only suits between national unions and their locals for violation of the national constitution. While the United As-

sociation does not squarely address this point,[30] the assertion of federal jurisdiction over suits for violation of a union constitution would necessarily provide jurisdiction for suits by or against individual members. This Court has already rejected the argument that Section 301 permits only suits by parties to the contract. *Smith v. Evening News Association, supra*, 371 U.S. at 198-200. Thus, an individual employee can sue to vindicate personal contractual rights which, by definition, "are to a large degree inevitably intertwined with union interests and many times precipitate grave questions concerning the interpretation and enforceability of the [Section 301(a) contracts] on which they are based." *Id.* at 200. An individual member's right to sue under a union constitution is even clearer because the member is actually a party to the contract. As the Court has stated, "membership in a labor union constitutes a contract between the member and the union, the terms of which are governed by the constitution and bylaws of the union." *Machinists v. Gonzales, supra*, 356 U.S. at 618.

Under this Court's interpretation of Section 301(a), no viable distinction can be drawn permitting employee suits against employers but precluding member suits against unions.[31] The majority of lower courts which

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[30] The United Association never explicitly states that suits by members are not permitted by Section 301(a). Yet by stating that there have been "less than fifty" suits between national unions and their locals (Br. at 23), it either understates the impact its position would have on the federal judicial system or implies that Section 301(a) would not support a suit between a member and a union. *See, e.g., Vincent v. Plumbers Local 198*, 384 F.Supp. 1379, 1381, 1384 (D. La. 1974).

[31] The suggestion in *Motor Coach Employees v. Lockridge*, 403 U.S. 274, 301 (1971), that "the principle of *Smith v. Evening News* is applicable only to those disputes governed by the terms of the collective bargaining agreement" cannot be taken out of context to preclude suits by members against their unions. In *Lockridge* and *Smith*, the Court "exempted § 301 suits from the *Garmon*

have considered the issue have interpreted Section 301 to permit member suits if other requirements are met. *Alexander v. Operating Engineers*, 624 F.2d 1235, 1238 (5th Cir. 1980); *Stelling v. IBEW Local 1547*, 587 F.2d 1379, 1382-1383 (9th Cir. 1978);[32] *Santos v. District Council Carpenters*, 547 F.2d 197, 200 n.3 (2d Cir. 1977); *Abrams v. Carrier Corp.*, 434 F.2d 1234, 1248-1249 (2d Cir. 1970), *cert. denied*, 401 U.S. 1009. As the Ninth Circuit stated in *Stelling*, "jurisdiction [under Section 301(a)] depends on the nature of the action rather than the status of the parties." *Supra*, 587 F.2d at 1383.

2. *Section 301(a) Provides No Basis for Differentiating Among Suits on the Basis of Their Impact Upon Labor-Management Relations*

The circuit courts have examined suits for violation of a union constitution under Section 301 to determine whether the dispute had a "significant impact" upon labor-management relations. See, *infra*, pp. 30-31. However, the established construction of the statute provides no basis for limiting Section 301 jurisdiction to those disputes having a "significant impact on labor-management relations." Congress expressly provided that "the amount in controversy" was irrelevant in Section 301 cases (29 U.S.C. § 185(a); *Textile Workers v. Lincoln Mills*, *supra*, 353 U.S. at 450), and this Court has held that because

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[preemption] principle." *Id.* at 300. But if Section 301 encompasses suits for violation of union constitutions, *Lockridge* cannot be construed as a limitation on the right of members to utilize the Section.

[32] In this respect, at least, *Stelling* overrules *Hotel and Restaurant Employees, Local 400 v. Svacek*, 431 F.2d 705, 706 (9th Cir. 1970). The only other circuit court case asserting this position, *Adams v. Boilermakers*, 262 F.2d 835, 838 (10th Cir. 1958), was decided before *Smith v. Evening News Ass'n*, *supra*, and is, therefore, of questionable precedential value.

the "processing of even frivolous claims may have therapeutic values," lower courts should not consider the merits of the dispute in a Section 301 action to compel arbitration. *Steelworkers v. American Mfg. Co.*, 363 U.S. 564, 568 (1960). The essence of both the Congressional and the judicial reasoning is that the execution of a Section 301(a) contract *itself* promotes industrial stability and that Section 301 permits the resolution of *all* disputes arising under such contracts in federal court.

The statute, as written and as presently construed, does not permit the assertion of jurisdiction over some, but not all, disputes under union constitutions. If a union constitution is a "contract" under Section 301, the Court must either assert pervasive federal jurisdiction over all internal union disputes, contrary to the clear Congressional policy in 1947, or distinguish among disputes arising under the "contract," contrary to both the plain and unconditional language of the statute and its legislative history requiring that Section 301 be "liberally" construed.

Furthermore, the "significant impact" test urged by the United Association—whether the dispute affects the identity of the union party or parties to negotiations and agreements with employees (Br. at 26)—would directly intrude upon the primary jurisdiction of the National Labor Relations Board. Where the unions, employers and employee/members do not contest the international's consolidation of local unions, there is no dispute within the meaning of Section 301. But if an employer refused to recognize the bargaining agent designated by the national union, the union would be required to invoke the processes of the Board in order to confirm its status. See, *e.g.*, *American Bridge Div., U.S. Steel Corp. v. NLRB*, 457 F.2d 660 (3d Cir. 1972); *Factory Services, Inc.*, 193 NLRB 722 (1971). And dissatisfied employees might

also invoke the Board's jurisdiction to protest the change in bargaining agent. *Cf. Dycus v. NLRB*, 615 F.2d 820 (9th Cir. 1980). In either situation, the Board's primary jurisdiction supercedes that of the courts. See, *e.g., Carey v. Westinghouse Electric Corp.*, 375 U.S. 261, 272 (1964); *Local 1547, IBEW v. Local 959, Teamsters*, 507 F.2d 872, 877 (9th Cir. 1974); *Baker v. Communications Union Local 6*, 628 F.2d 156, 164 (D.C. Cir. 1980). Thus, under the United Association's theory, as the impact of a dispute upon labor-management relations becomes more severe, it becomes increasingly likely that judicial interpretation of a union constitution will *not* resolve the dispute. Surely Congress could not have intended to provide federal jurisdiction for those internal union disputes that the federal courts were least likely to resolve and over which the Board could assert primary jurisdiction.

3. *The Federalization of Existing State Law Which Would Be Caused By Extension of Jurisdiction Under Section 301 Is Unwarranted and Will Not Create Uniformity*

Section 301 authorizes "federal courts to fashion a body of federal law" for the enforcement of contracts within the meaning of the statute. *Textile Workers v. Lincoln Mills, supra*, 353 U.S. at 451. "[T]he substantive law to apply in suits under § 301(a) is federal law, which the courts must fashion from the policy of our national labor laws." *Id.* at 456. State law "may be resorted to in order to find the rule that will best effectuate federal policy . . . ," but "state law . . . will be absorbed as federal law and will not be an independent source of private rights." *Id.* at 457. Accord, *Teamsters Local 174 v. Lucas Flour Co.*, 369 U.S. 95, 102-103 (1962); *Dowd Box Co. v. Courtney, supra*, 368 U.S. at 511; *Automobile Workers v. Hoosier Cardinal Corp.*, 383 U.S. 696, 705-706 (1966). Extension of federal juris-

diction under Section 301(a) to disputes arising under union constitutions would necessitate the displacement of state law by a federal common law interpreting union constitutions. *Parks v. IBEW*, *supra*, 314 F.2d at 903-904. Of course, in 1947 and again in 1959, Congress took great care *not* to preempt state laws concerning internal union affairs. *Supra*, pp. 14-20.

The displacement of state law by federal common law might, at first glance, appear to provide support for the United Association's position. It could be argued that federal preemption of the laws applicable to union constitutions would result in uniformity of interpretation and that the United Association, like all national unions, has a legitimate and substantial interest in a uniform judicial interpretation of its constitution, which should mean the same thing in Kansas as in New York.[33]

But federal preemption under Section 301(a) is not necessary to achieve uniformity. State courts have traditionally provided substantial uniformity by recognizing the principal of judicial deference to an interpretation fairly placed upon union rules by the union's authorized officials. *Louisville & Nashville R. Co. v. Miller*, 219 Ind. 389, 38 N.E.2d 239, 241 (1941), *cert. denied*, 317 U.S. 644.[34] Such deference, when accompanied by the state courts' recognition of the requirement of exhaustion of internal union remedies,[35] provides substantial uniform-

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[33] Even Section 301, however, cannot ensure that the constitution will mean the same thing in Canada as in the United States. *See Pawlak v. Greenawalt*, 628 F.2d 826, 831 (3d Cir. 1980), *cert. denied*, —— U.S. ——.

[34] Decisions of thirty-five state courts recognizing the doctrine of judicial deference to a union's interpretation of its own constitution are listed in the Supplemental Appendix. No state court decision rejecting this doctrine was found.

[35] Decisions of thirty-seven state courts adopting the requirement of exhaustion of internal union remedies are listed in the Supplemental Appendix. No state court decision rejecting this requirement was found.

ity under state law without sacrificing the local values this Court has always upheld. *Machinists v. Gonzales*, *supra*, 356 U.S. at 620; *NLRB v. Boeing Co.*, *supra*, 412 U.S. at 77.[36]

Moreover, if the Court adopts a "significant impact test," the development of a new federal common law "will [not] necessarily result in greater uniformity in this area even if uniformity is thought to be a desirable goal." Since state courts will have jurisdiction to interpret union constitutions, the development of a federal common law "might well yield a conflict when the two forums are called upon to interpret the same [constitutional provision]." *Id.* at 77-78.[37] The Court could avoid

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[36] Uniformity is not essential in union fine cases, for the reasonableness of a fine depends upon an analysis of the facts in each case: the amount of the fine, the nature of the violation, and the benefit to the member who violated the union rule. See cases cited in *Boeing Co.*, *supra*, 412 U.S. at 76-77, nn. 12-13. The assertion of jurisdiction would implicitly overrule *Boeing Co.* and *Hotel & Restaurant Employees, Local 400 v. Svacek*, 431 F.2d 705 (9th Cir. 1970), and permit unions to collect fines in federal court. A creative union could use the federal courts as a small claims court to collect dues, fees and fines from recalcitrant members.

State courts have also asserted the state's interest to control the disposition of a local's property upon its disaffiliation from its parent union. *See, e.g.*, Greenberg, *Disposition of Union Assets Upon Disaffiliation*, 33 TEMPLE L. Q. 152 (1960); Note, *Rights to Local Union Property After Secession*, 58 YALE L. J. 1171 (1949).

[37] A number of problems are self evident. If only the merger and trusteeship provisions of union constitutions raise issues cognizable under Section 301, then some portions of the constitution would be governed by federal law while others would be governed by state law. No other Section 301 "contract" presents such a schizophrenic picture. If the courts must undertake a case-by-case analysis of the complaint before asserting jurisdiction, there will be no uniformity. Consider, for example, the consequences of adopting a "significant impact" test for determining jurisdiction under Section 301. If such impact is found to exist, the constitution will be interpreted under federal law. If such impact is not

this problem by holding that the federal common law controls every dispute over a union constitution but that federal courts have jurisdiction over only certain cases.[38] But Congress has expressly extended federal court jurisdiction to all suits under Section 301 "contracts." The Court cannot now create arbitrary distinctions to extend the principle of federalization but, at the same time, bar access to the federal judiciary. Contrast *Smith v. Evening News Assn., supra,* with *Assn. of Westinghouse Salaried Employees v. Westinghouse Corp.*, 348 U.S. 437 (1955).

The reasonable solution to this potential morass is to leave the resolution of disputes arising under union constitutions to state courts applying state law. *Machinists v. Gonzales, supra,* 356 U.S. at 618; *NLRB v. Allis-Chalmers Mfg. Co., supra; Scofield v. NLRB, supra,* 394 U.S. at 426 n.3; *Motor Coach Employees v. Lockridge, supra,* 403 U.S. at 296; *NLRB v. Boeing Co., supra,* 412 U.S. at 75-76. As Judge Friendly stated, concurring in *Local 33, Hod Carriers v. Mason Tenders,* 291 F.2d 496, 507 (2d Cir. 1961):

> we ought not to push the language of the second clause of § 301(a) to its ultimate possible reach but rather should construe it not to cover a dispute between units of the same union arising solely out of a union custom or constitution; I would limit the jurisdictional grant to cases where the plaintiff al-

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found to exist, the *very same provision* of the union constitution will be construed under state law. Every clause in a union constitution should be enforceable under one system of law: the law of the state in which the dispute arose.

[38] State courts have jurisdiction to enforce federal law. *Dowd Box Co. v. Courtney, supra.* And Congress has specifically provided that the amount in controversy does, in certain cases, determine the existence of federal jurisdiction. 28 U.S.C. §§ 1331-1332, 1335.

leges a text, bargained between itself and another labor organization, of definite content and tenor. The box that Congress opened need not become Pandora's unless courts make it so.

We therefore urge the Court to conclude that a union constitution is not a "contract between labor organizations" within the meaning and intent of Section 301(a).

II. IF SECTION 301(a) PROVIDES JURISDICTION FOR SOME, BUT NOT ALL, DISPUTES ARISING UNDER A UNION CONSTITUTION, JURISDICTION SHOULD EXTEND ONLY TO DISPUTES WHICH ACTUALLY THREATEN LABOR PEACE

A. Section 301 Jurisdiction Should Be Extended Only Where "Significant to the Maintenance of Labor Peace"

Assuming, *arguendo*, that Congress intended to provide jurisdiction under Section 301 to resolve at least some disputes arising under a union constitution, the only discernible basis for extending jurisdiction under Section 301 is Congress' determination to provide a federal forum for enforcement of agreements "significant to the maintenance of labor peace." *Retail Clerks v. Lion Dry Goods, Inc.*, 369 U.S. 17, 28 (1962); *United Textile Workers v. Textile Workers Union*, 258 F.2d 743 (7th Cir. 1958). Deference to the Congressional policy of noninterference with internal union affairs requires that if Section 301 jurisdiction is extended to disputes arising under union constitutions, jurisdiction be asserted *only* where the dispute involves an *actual* threat to industrial peace. Only then might the union constitution "or its enforcement [impinge] on some policy of federal labor law . . ." *Scofield v. NLRB*, *supra*, 394 U.S. at 426, n.3.

Contrary to any impression which might be drawn from the United Association's brief (Br. at 13-21), the

great weight of lower court authority supports this restrictive construction of the statute. Indeed, the seminal Fourth Circuit decision in *Parks v. IBEW* itself can fairly be read to restrict jurisdiction along these lines. The court in *Parks* "fully recognize[d] its weighty obligation not to expand this initial grant of jurisdiction into a carte blanche for unrestrained judicial inventiveness in the areas of union structure and collective bargaining policy" (*supra*, 314 F.2d at 917) and further noted that the particular dispute before it, which centered upon a strike in violation of the union constitution, had "traumatic industrial and economic repercussions." *Id.* at 916. Many of the circuit court decisions interpret the *Parks* decision in this light and extend Section 301 jurisdiction *only* where internal union disputes have such "traumatic industrial and economic repercussions." *Alexander, supra*, 624 F.2d at 1238; *Studio Electrical Technicians Local 728 v. International Photographers of the Motion Picture Industries Local 659*, 598 F.2d 551, 553 (9th Cir. 1979); *1199 D.C., National Union of Hospital and Health Care Employees v. National Union of Hospital and Health Care Employees*, 533 F.2d 1205, 1207-1208 (D.C. Cir. 1976). Other courts have applied a similarly restrictive standard under Section 301. *Baker, supra*, 628 F.2d at 163-164; *Trail v. International Brotherhood of Teamsters*, 542 F.2d 961, 966-968 (6th Cir. 1976); *Smith v. United Mine Workers, supra*, 493 F.2d at 1242-1244; *Hotel & Restaurant Employees Local 400 v. Svacek*, 431 F.2d 705, 706 (9th Cir. 1970).

This narrow extension of Section 301 jurisdiction would serve the salutary purpose of minimizing interference by the federal judiciary in internal union affairs, allowing federal courts to review the pleadings and weed out the "intraunion squabble" (*Alexander, supra*, 624 F.2d at 1239) which presents no more than a "specula-

tive" threat to industrial peace (*Studio Electrical Technicians, Local 728, supra*, 598 F.2d at 554) or a "bald conclusion unsupported by any factual allegation to give it substance." *1199 D.C., supra*, 533 F.2d at 1208, n.1. Section 301 jurisdiction would thereby be reserved for those suits under union constitutions which raise "concrete allegations of actual threats to industrial peace." *Id.*

B. The Court Below Properly Declined To Assert Jurisdiction Over This Internal Union Dispute

1. *The Complaint Does Not Allege A Significant Impact On Labor-Management Relations*

In determining jurisdiction under Section 301, the lower courts have properly focused upon the factual allegations contained in the complaint. *Baker, supra*, 628 F.2d at 164; *Alexander, supra*, 624 F.2d at 1239; *Studio Electrical Technicians, supra*, 598 F.2d at 553; *Stelling, supra*, 587 F.2d at 1384; *Local Union No. 657, supra*, 552 F.2d at 1255 n.8; *1199 D.C., supra*, 533 F.2d at 1208. Because the instant case reached the federal court upon removal from state court pursuant to 28 U.S.C. § 1441 (J.A. 52-53), the propriety of the district court's assertion of jurisdiction must be determined solely by reference to the four corners of the complaint.[39] *Phillips Petroleum Co. v. Texaco, Inc.*, 415 U.S. 125, 127-128 (1974).

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[39] The United Association's references to materials *not* part of or attached to Local 334's complaint (J.A. 21-46, 54-65) are therefore *irrelevant* to the propriety of the decision below denying jurisdiction. Examples of citations to such irrelevant materials include reference to the Affidavit of Martin J. Ward (J.A. 85-86) at page 4 of its Brief; reference to the Order to Show Cause issued by the United States District Court below (J.A. 66-67) cited at page 7 of its Brief; and reference to Exhibit C to Craner Affidavit (J.A. 142-143) at page 28 of its Brief. The Court should disregard these citations and any others to material in the Joint Appendix not relevant to the issue at hand.

The Complaint reveals the gravamen of the dispute to be whether or not the General President of the United Association exceeded the authority or abused the discretion granted him by the United Association constitution in ordering a consolidation of several New Jersey local unions, including Local 334, into two successor locals (J.A. 58, 61). As consequences of the General President's allegedly unconstitutional order of consolidation, Local 334's Complaint avers that its members would lose "rights and privileges" under the Constitution, that the membership of Local 334 would "be deprive[d] of work opportunities," and that they would suffer financial losses which are "impossible to calculate." (J.A. 59-60). Finally, the Complaint alleges that the ordered consolidation would cause "irreparable injury to the property rights of the members" of Local 334 because the Local would be required to surrender its assets, a "great portion" of which consist of realty, to be divided among the successor locals (J.A. 60).

In its answer, the United Association denied that the provisions of the constitution had been violated, denied that its order of consolidation would have the consequences alleged by Local 334, and denied that Local 334 had fully exhausted its internal union remedies. The United Association affirmatively asserted in its defense that it "has, in the consolidation, fully adhered to the provisions of the Constitution . . . [and] has not breached any contractual obligation" to Local 334. Thus both Local 334's allegations and the defenses asserted by the United Association, which focus squarely upon interpretation of the provisions of the union constitution, demonstrate that this case presents a mere *internal* union dispute. *Studio Electrical Technicians Local 728*, *supra*, 598 F.2d at 553; *Stelling*, *supra*, 587 F.2d at 1384.

The pleadings do not contain even general or conclusory allegations that "a threat to industrial peace"

would result from the alleged violation of the United Association constitution or that the order of consolidation would have "a significant impact upon labor-management relations." The court below properly realized that, in determining whether or not jurisdiction exists under Section 301(a), "the complaint is the crucial document," and concluded that "any impact on labor-management relations" from the instant dispute as to the interpretation of the constitution "would be minimal." (Pet. 15a, 16a.)

The United Association's criticism of the court of appeals' analysis of the complaint is unfounded. The United Association argues first that the change in Local 334's job referral system, alleged in the complaint as a necessary consequence of the order of consolidation, supplies the impact required for Section 301 jurisdiction. But, as the court below observed, the referral lists in question "are an *internal* union device for assigning work opportunities" rather than a term or condition in a collective bargaining agreement with employers (Pet. 16a, emphasis supplied). Even if the referral system were incorporated into a collective bargaining agreement, however, the same conclusion would be required. "[T]he fact that the situs of the alleged union wrongdoing [is] the bargaining table does not alter the intra-union nature of the alleged misconduct" (*Baker, supra*, 628 F.2d at 163-164), especially in the absence of even a general or conclusory allegation that "any employer was confronted with the dilemma of choosing between competing factions of the same union . . ." and therefore was "forced to make untenable choices concerning union representation" *1199 D.C., supra*, 533 F.2d at 1208; *Studio Electrical Technicians Local 728, supra*, 598 F.2d at 553-554.

Equally without merit is the United Association's argument with respect to the alleged "displacement by two

new local unions of the one local which had been a party to collective bargaining" with area employers (Br. at 28). Again, the Complaint contains no concrete and specific allegation of impact upon labor-management relations or threats to industrial peace. In fact, the Complaint makes no reference at all to the displacement of Local 334 as bargaining agent by other local unions, notwithstanding the United Association's belated attempt to supplement the allegations in the Complaint (Br. at 28; J.A. 142).

2. *Section 301 Jurisdiction Cannot Be Predicated Upon An Internal Union Dispute's "Potential" Impact On Labor-Management Relations*

Indeed, by the tenor of its argument, the United Association implicitly concedes that the complaint lacks the requisite allegations of actual "impact" required to establish jurisdiction under Section 301. Thus, the United Association argues that "any change in the existing referral system *can* impact upon the employer" and that "the consolidation of locals . . . is simply the union-side equivalent of the corporate merger and its *potential* for effect on labor-management relations is no less great." (Br. at 28, 29; emphasis supplied). However, the decisions of the lower courts have not asserted jurisdiction merely because of a "potential" for industrial strife or "potential" impact on labor-management relations. *See supra*, p. 31.

The United Association's reliance upon the circuit court decisions in *National Association of Letter Carriers v. Sombrotto*, 449 F.2d 915 (2d Cir. 1971), *Local 1219 Carpenters v. Carpenters*, 493 F.2d 93 (1st Cir. 1974) and *Local 657 Carpenters v. Sidell*, 552 F.2d 1250 (7th Cir. 1977) is misplaced. Each of these cases presented a controversy under a union constitution which caused "traumatic industrial and economic repercussions"

(*Parks v. IBEW, supra*) and which, unlike the present case, fit within the Congressional policy of providing a federal forum for enforcement of agreements "significant to the maintenance of labor peace." *Retail Clerks v. Lion Dry Goods, Inc., supra.*

In *Sombrotto,* the international union sued to enforce a trusteeship imposed upon an unwilling local union to prevent a strike by the local union of public employees that would have been both unlawful and in violation of the union constitution. 449 F.2d at 917. Because of the imminence of the illegal strike, jurisdiction under Section 301 could have been found under the most narrow reading of the statute.

Local 1219 involved a jurisdictional dispute between a millwright local and several sister carpenter locals within the same national union. The millwright local brought suit against the national union under Section 301 alleging essentially that the international had failed to enforce a jurisdictional award in favor of the millwrights and against the carpenter locals. In evaluating the propriety of asserting Section 301 jurisdiction, the courts noted that the carpenter locals "vehemently opposed the formation of the millwright's union" and, further, that the underlying jurisdictional dispute led to the filing of unfair labor practice charges by one of the affected employers. *Local 1219, Carpenters v. Carpenters,* 314 F.Supp. 148, 149-150 (D. Me. 1970), *aff'd,* 493 F.2d 93 (1st Cir. 1974). Thus, although the First Circuit, like the Second Circuit in *Sombrotto,* purported to interpret Section 301 "literally" and without reference to the underlying complaint, the character and breadth of the jurisdictional controversy, and particularly the active involvement of an employer in the dispute, strongly suggests that the application of the prevailing narrow jurisdictional standard would not change the First Cir-

cuit's result. Of course, these same factors clearly distinguish the actual impact in *Local 1219* from the "potential" impact which the United Association extrapolates from the instant Complaint.

Local 657 provides even less support for the assertion of jurisdiction in this case. Relying upon *1199 D.C.*, the Seventh Circuit expressly adopted the prevailing narrow view of Section 301 jurisdiction. The complaint in *Local 657* contained an express allegation that "stable and harmonious relationships" with employers would be subjected to "immeasurable harm." *Supra*, 552 F.2d at 1255. Although asserting jurisdiction under Section 301, the Seventh Circuit cautioned "that a federal court should be chary of extending the scope of Section 301(a) to comprehend federal court involvement in the control and supervision of purely internal union affairs." *Id.* The Complaint in this case contains no allegation of interruption of "stable and harmonious relationships with employers," as the United Association in fairness must concede. Accordingly, a comparison of this case with *Sombrotto, Local 1219* and *Local 657*, demonstrates the obvious lack of any threat to industrial peace in the present case and highlights the superficiality of the United Association's contention that this case involves a significant impact upon labor-management affairs.

Thus, the "impact" standard of jurisdiction which the United Association seeks to impose under Section 301 is, in reality, no standard at all. The Complaint contains no such allegations, and a characterization of this case as presenting the requisite "impact" would require lower courts to engage in the same kind of generalized, speculative, and factually unfounded construction of complaints reflected in the United Association's argument. If all that need be shown to obtain jurisdiction under Section 301 is that the underlying dispute "may" or "can" affect

labor-management relations or has the "potential" to do so, each of the previous circuit court decisions denying jurisdiction was incorrectly decided. "[T]his line of reasoning would include practically every [internal dispute] within the ambit of Section 301, since ultimately practically all union activity will have some impact in the labor-management area." *Alexander, supra,* 624 F.2d at 1239.[40] The expansive definition of "impact" urged by the United Association would open the federal courts to a wide variety of internal union disputes with indirect and marginal effects upon labor-management relations. Assuming, *arguendo,* that Section 301(a) extends federal jurisdiction over any suit alleging a violation of a union constitution, we urge the Court to apply a restrictive standard under which the federal judiciary may consider only disputes having a "traumatic" impact on labor-management relations. This is not such a case.

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[40] Even where the lower courts have refused to assert jurisdiction, the courts could have found the "potential" for impact upon labor-management relations or for industrial strife. *Baker, supra,* 628 F.2d at 162 (alleged violation of union constitution in negotiating collective bargaining agreement); *Alexander, supra,* 624 F.2d at 1239 (negotiation of project agreement); *Studio Electrical Technicians Local 728, supra,* 598 F.2d at 552 (resolution of jurisdictional dispute); *Stelling, supra,* 587 F.2d at 1382 (negotiation of collective bargaining agreement); *Trail, supra,* 542 F.2d at 964-965 (negotiating collective bargaining agreement); *1199 D.C., supra,* 533 F.2d at 1206 (merger of local unions); *Smith v. United Mine Workers, supra,* 493 F.2d at 1242 (merger of districts within union).

CONCLUSION

For the reasons stated herein, the judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

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SUPPLEMENTAL APPENDIX

STATE	ENFORCEABILITY OF UNION CONSTITUTION	EXHAUSTION OF INTERNAL REMEDIES	JUDICIAL DEFERENCE TO UNION INTERPRETATION
Alabama	Railroad Trainmen v. Barnhill 214 Ala. 565 108 So. 456, 459 (1926)	Shaup v. Locomotive Engineers 223 Ala. 202 135 So. 327, 329 (1931)	Railroad Trainmen v. Barnhill 214 Ala. 565 108 So. 456, 462 (1926)
Alaska	Born v. Cease 13 Alas. 518, 101 F. Supp. 473 (1951), aff'd, 15 Alas. 60, 213 F. 2d 407 (9th Cir. 1952), cert. denied, 348 U.S. 855	Born v. Cease 13 Alas. 518, 101 F. Supp. 473, 475 (1951)	
Arizona	Locomotive Engineers v. Mills 43 Ariz. 379 31 P. 2d 971, 986 (1934)		Locomotive Engineers v. Mills 43 Ariz. 379 31 P. 2d 971, 987-988 (1934)
Arkansas	Love v. Locomotive Engineers 139 Ark. 375 215 S. W. 602 (1918)		Love v. Locomotive Engineers 139 Ark. 375 215 S. W. 602, 605 (1918)
California	McConville v. Milk Wagon Drivers 106 Cal. App. 696 289 P. 852 (1930)	Greenwood v. Building Trades Council 71 Cal. App. 159 233 P. 823, 826 (1925)	McConville v. Milk Wagon Drivers 106 Cal. App. 696 289 P. 852, 853 (1930)
Colorado	Local 720, Hod Carriers v. Bednasek 119 Colo. 586 205 P. 2d 796 (1949)	Capra v. Lodge 273, Locomotive Firemen 102 Colo. 63 76 P. 2d 738, 739 (1938)	Capra v. Lodge 273, Locomotive Firemen 102 Colo. 63 76 P. 2d 738, 740 (1938)

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STATE	ENFORCEABILITY OF UNION CONSTITUTION	EXHAUSTION OF INTERNAL REMEDIES	JUDICIAL DEFERENCE TO UNION INTERPRETATION
Connecticut	Machinists v. Reba 97 Conn. 235 116 A. 235 (1922)	Heyse v. Local 1938, ILA 7 Conn. Sup. 289, 292 (1939)	IBEW, Local 35 v. Comm'n on Civil Rights 140 Conn. 537 102 A.2d 366, 370 (1954)
Delaware	Kennedy v. Roberts 15 Del. Ch. 401 140 A. 656, 657 (1926)		
District of Columbia	Fish v. Huddell 60 U.S. App. D.C. 263 51 F.2d 319 (1931)	Fish v. Huddell 60 U.S. App. D.C. 263 51 F.2d 319, 320 (1931)	Green v. Obergfell 73 U.S. App. D.C. 298 121 F.2d 46, 55 n. 27 (1941), cert. denied, 314 U.S. 637
Florida	Stanton v. Harris 152 Fla. 736 13 So.2d 17 (1943)	Stanton v. Harris 152 Fla. 736 13 So.2d 17, 18 (1943)	Stanton v. Harris 152 Fla. 736 13 So.2d 17 (1943)
Georgia.	Holmes v. Brown 146 Ga. 402 91 S.E. 408 (1917)	Holmes v. Brown 146 Ga. 402 91 S.E. 408, 409 (1917)	Walker v. Locomotive Engineers 186 Ga. 811 199 S.E. 146, 151-152 (1938)
Hawaii			

STATE	ENFORCEABILITY OF UNION CONSTITUTION	EXHAUSTION OF INTERNAL REMEDIES	JUDICIAL DEFERENCE TO UNION INTERPRETATION
Idaho	Allison v. Railroad Trainmen 34 Idaho 488 201 P. 839 (1921)		American Railway Supervisors Assn. v. Union Pacific Lodge 92 Idaho 925 453 P.2d 574, 577 (1969)
Illinois	Fichter v. Milk Wagon Drivers 382 Ill. 91 46 N.E.2d 921 (1943), cert. denied, 319 U.S. 758	Engel v. Walsh 58 Ill. 98 101 N.E. 222, 224 (1913)	Evans v. Johnston 300 Ill. App. 78 20 N.E.2d 841, 849 (1939) cert. denied, 309 U.S. 662
Indiana	Gardner v. Newbert 74 Ind. App. 183 128 N.E. 704 (1920)	Louisville & Nashville R. Co. v. Miller 219 Ind. 389 38 N.E.2d 239, 241 (1941) cert. denied, 317 U.S. 644	Louisville & Nashville R. Co. v. Miller 219 Ind. 389 38 N.E.2d 239, 241 (1941) cert. denied, 317 U.S. 644
Iowa	Nissen v. Teamsters 229 Iowa 1028 295 N.W. 858 (1941)	Nissen v. Teamsters 229 Iowa 1028 296 N.W. 858, 866-867 (1941)	
Kansas	Flynn v. Railroad Trainmen 111 Kan. 415 207 P. 829 (1922)	Flynn v. Railroad Trainmen 111 Kan. 415 207 P. 829, 830 (1922)	Flynn v. Railroad Trainmen 111 Kan. 415 207 P. 829, 831 (1922)
Kentucky	Railroad Trainmen v. Williams 211 Ky. 638 277 S.W. 500 (1925)	Railroad Trainmen v. Williams 211 Ky. 638 277 S.W. 500, 503 (1925)	Railroad Trainmen v. Williams 211 Ky. 638 277 S.W. 500, 503 (1925)

STATE	ENFORCEABILITY OF UNION CONSTITUTION	EXHAUSTION OF INTERNAL REMEDIES	JUDICIAL DEFERENCE TO UNION INTERPRETATION
Louisiana	Monroe v. Colored Screwmen's Benev. Assn. No. I 135 La. 893 66 So. 260 (1914)	Nyland v. Carpenters Local 1960 156 La. 604 100 So. 733, 734 (1924)	Elfer v. MEBA 179 La. 383 154 So. 32, 34 (1934)
Maine	Flaherty v. Portland Longshoremen's Benev. Soc. 99 Me. 253 59 A. 58 (1904)		
Maryland	Baltimove Lodge No. 405 v. Machinists 134 Md. 355 106 A. 692 (1919)	Baltimore Lodge No. 405 v. Machinists 134 Md. 355 106 A. 692, 693 (1919)	Long v. Baltimore & O.R. Co. 155 Md. 265 141 A. 504, 509 (1928)
Massachusetts	Sweetman v. Barrows 263 Mass. 349 161 N.E. 272 (1928)	Agrippino v. Perrotti 270 Mass. 55 169 N.E. 793, 795 (1930)	Shinsky v. Tracey 226 Mass. 21 114 N.E. 957, 958 (1917)
Michigan	Harris v. Detroit Typographical Union No. 18 144 Mich. 422 108 N.W. 362 (1906)	Harris v. Detroit Typographical Union No. 18 144 Mich. 422 108 N.W. 362 (1906)	Ryan v. New York Cent. R. Co. 267 Mich. 202 255 N.W. 365, 367-368 (1934)
Minnesota	Steinert v. Carpenters 91 Minn. 189 97 N.W. 668 (1903)	Mixed Local v. Hotel & Restaurant Workers 212 Minn. 587 4 N.W.2d 771, 775, 778 (1942)	Ross Lodge v. Railroad Trainmen 191 Minn. 373 254 N.W. 590, 593 (1934)

STATE	ENFORCEABILITY OF UNION CONSTITUTION	EXHAUSTION OF INTERNAL REMEDIES	JUDICIAL DEFERENCE TO UNION INTERPRETATION
Mississippi	Railroad Trainmen v. Smith 129 Miss. 738 92 So. 837 (1922)	Lowery v. Boilermakers 241 Miss. 458 130 So.2d 831, 836-837 (1961)	Yazoo & M.V.R. Co. v. Mitchell 173 Miss. 594 161 So. 860, 864 (1935)
Missouri	Webster v. Rankins ___ Mo. ___ 50 S.W.2d 746 (1932)	Crutcher v. Eastern Div. No. 321 Railway Conductors 151 Mo. 622 132 S.W. 307, 309-310 (1910)	Junkins v. Local 6313, CWA 241 Mo. App. 1029 271 S.W.2d 71, 76 (1954)
Montana	Ely v. Montana State Federation of Labor 117 Mont. 609 160 P.2d 752 (1945)		
Nebraska	Chrisler v. Crum 115 Neb. 375 213 N.W. 366 (1927)	Chrisler v. Crum 115 Neb. 375 213 N.W. 366, 369 (1927)	
Nevada	Johnson v. Carpenters 50 Nev. 400 488 P. 170 (1930)	Johnson v. Carpenters 50 Nev. 400 488 P. 170 (1930)	Hickman v. Kline 71 Nev. 55 279 P.2d 662 (1955)
New Hampshire	McCostis v. Nashua Pressmen Union 109 N.H. 226, 248 A.2d 85 (1968) *Cf.* Moon v. Flack, 74 N.H. 140 65 A. 829 (1907)		

STATE	ENFORCEABILITY OF UNION CONSTITUTION	EXHAUSTION OF INTERNAL REMEDIES	JUDICIAL DEFERENCE TO UNION INTERPRETATION
New Jersey	Harris v. Ceier 112 N.J. Eq. 99 164 A. 50 (Ch. 1932)	Hod Carriers Local 426 v. Hod Carriers 102 N.J. Eq. 474 138 A. 532 (1927)	Hod Carriers Local 426 v. Hod Carriers 102 N.J. Eq. 474 138 A. 532 (1927)
New Mexico	Reno v. Rehder 24 N.M. 534 174 P. 992 (1918)	Reno v. Rehder 24 N.M. 534 174 P. 992 (1918)	
New York	Polin v. Kaplin 257 N.Y. 277 177 N.E. 833 (1931)	Havens v. King 221 App. Div. 475 224 N.Y.Supp. 193 (3d Dept. 1927), aff'd w/o opinion, 250 N.Y. 617, 166 N.E. 346 (1929)	Robinson v. Dahm 94 Misc. 729 159 N.Y.Supp. 1053 (Sup. Ct. 1916)
North Carolina	Welsh v. Railroad Trainmen 200 N.C. 184 156 S.E. 539 (1931)		
North Dakota	Huffman v. Railroad Trainmen 65 N.D. 446 259 N.W. 663 (1935)		Huffman v. Railroad Trainmen 65 N.D. 446 259 N.W. 663 (1935)
Ohio	Steam & Operating Engineers v. Owens 119 Ohio St. 94 162 N.E. 386 (1928)	Armstrong v. Duffy 90 Ohio App. 233 103 N.E.2d 760 (1951)	Bobbit v. Cleveland C.C. & St. L. Ry. Co. 73 Ohio App. 339 56 N.E.2d 348 (1943)

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Oklahoma	Lockwood v. Chitwood 185 Okl. 44 82 P.2d 951 (1939)	Taxicab Drivers Local 889 v. Pittman 322 P.2d 159 (1958)	Leeder v. Cities Service Oil Co. 199 Okl. 618 189 P.2d 189 (1948)
Oregon	Weighers and Warehousemen v. Green 157 Or. 394 72 P.2d 55 (1937)		Allen v. Southern Pac. Co. 166 Or. 197 110 P.2d 933 (1941)
Pennsylvania	O'Neill v. Plumbers 348 Pa. 532 36 A.2d 325 (1944)	O'Neill v. Plumbers 348 Pa. 532 36 A.2d 325 (1944)	Heasley v. Operative Plasterers 324 Pa. 257 188 A. 206 (1936)
Rhode Island	Falles v. Musicians 40 R.I. 34 99 A. 823 (1917)	Federation of Ins. Employees v. United Office & Prof. Workers 77 R.I. 210 74 A.2d 446 (1950)	Rhodes Bros. Co. v. Musicians Local 198 37 R.I. 281 92 A. 641 (1915)
South Carolina	Edgar v. Southern Ry. Co. 213 S.C. 445 49 S.E.2d 841 (1948)		
South Dakota			

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Tennessee	Honea v. American Council No. 27 139 Tenn. 21 201 S.W. 126 (1918)	Haynes v. Chemical Workers 190 Tenn. 165 228 S.W.2d 101, 105 (1950)	Liming v. Maloney 32 Tenn. App. 632 225 S.W.2d 276 (1949)
Texas	Carpenters v. Carpenters Local 14 178 S.W.2d 558 (Tex. 1944)	S.L. & S.W. Railway Co. v. Thompson 102 Tex. 89 113 S.W. 144, 147 (1908)	Grand Int'l Bro. v. Marshall 119 S.W.2d 908, 911 (Tex. 1938)
Utah	Pratt v. Amalgamated Assn. 50 Utah 472 167 P. 830 (1917)		Pratt v. Amalgamated Assn. 50 Utah 472 167 P. 830 (1917)
Vermont	Cf. Houghton v. Grimes 100 Vt. 99 135 A. 15, 18 (1926)		
Virginia	Amalgamated Clothing Workers v. Kiser 174 Va. 229 6 S.E.2d 562 (1939)		Boilermakers v. Wood 162 Va. 517 175 S.E. 45 (1934)
Washington	Lumber & Sawmill Workers v. Int'l Woodworkers of Amer. 197 Wash. 491 85 P.2d 1099 (1938)	Local 104 v. Boilermakers 158 Wash. 480 291 P. 328 (1930)	

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West Virginia	Simpson v. Locomotive Engineers 83 W. Va. 168 98 S.E. 580 (1919) cert. denied, 250 U.S. 644	Burger v. McCarthy 84 W. Va. 697 100 S.E. 492 (1919)	Kalbitzer v. Goodhue 52 W. Va. 435 44 S.E. 264 (1903)
Wisconsin	Wickham v. Carpenters 178 Wisc. 564 190 N.W. 436 (1922)	Loeffler v. Modern Woodmen of America 100 Wisc. 79 75 N.W. 1012 (1898)	Callahan v. Railroad Conductors 169 Wisc. 43 171 N.W. 653 (1919)
Wyoming	Samuelson v. Railway Trainmen 60 Wyo. 316 151 P.2d 347 (1944)	Samuelson v. Railway Trainmen 60 Wyo. 316 151 P.2d 347 (1944)	Samuelson v. Railway Trainmen 60 Wyo. 316 151 P.2d 347 (1944)